

California Regional Water Quality Control Board
Santa Ana Region

CEASE AND DESIST ORDER No. 99-65
for
Violations and Threatened Violations of
Requirements Specified in Order No. 99-11, NPDES No. CAG018001
General Waste Discharge Requirement For Concentrated Animal Feeding Operations (Dairies
and Related Facilities) Within The Santa Ana Region

The California Regional Water Quality Control Board, Santa Ana Region (hereinafter, Board), finds that:

1. On August 20, 1999, the Board adopted Order No. 99-11, NPDES No. CAG018001, General Waste Discharge Requirements for Concentrated Animal Feeding Operations (CAFOs) Within The Santa Ana Region. Order No. 99-11 replaced Order No. 94-7, the previous general waste discharge requirements for CAFOs.
2. Operators of CAFOs (hereinafter, dischargers) covered under Order No. 94-7 or individual waste discharge requirements and dischargers who have submitted a notice of intent to be covered under Order No. 94-7 were automatically enrolled under Order No. 99-11.
3. Discharge Specification A.2. of Order No. 99-11 specifies:
 2. *The discharger shall develop and fully implement an Engineered Waste Management Plan (EMWP) acceptable to the Executive Officer. The EMWP shall be developed by a registered professional engineer, or other qualified individual, in accordance with the guidelines specified in Attachment "B" of this order. The Executive Officer is hereby authorized to make necessary revisions to the guidelines for the preparation of an EWMP outlined in Attachment "B".*
4. Order No. 99-11 incorporates new prohibitions regarding manure disposal/use that were not included in Order No. 94-7, specifically, Discharge Specifications A.6., A.8., and A.9. which state:
 6. *The use of manure as a fertilizer in any area that may affect a groundwater subbasin lacking assimilative capacity, including the Chino Groundwater Basin, is prohibited unless a plan, acceptable to the Executive Officer, is implemented which mitigates the effects of that use on the underlying groundwater subbasin.*
 8. *Manure removed from the corrals shall be hauled off the facility within 180 days. Any manure remaining at the facility after 180 days of being removed from the corrals is considered to be disposal of manure and is prohibited in accordance with Discharge Specification A.5. A manifest of the manure hauled away shall be prepared and submitted with the annual report in accordance with Monitoring and Reporting Program No. 99-11.*

9. *On two designated "clean days" per calendar year, facilities subject to this order shall be free of all stockpiled manure that has been removed from corrals. These "clean days" shall be selected by each discharger, beginning in 2000. The two "clean days" shall be at least four months apart. Each "clean day" shall be identified and reported to the Board office at least five working days in advance of the selected date.*
5. Many dischargers enrolled under Order No. 99-11 are violating or threatening to violate Discharge Specifications A.2., A.6., A.8., and A.9. of Order No. 99-11.
6. It is appropriate to provide a time schedule to achieve full compliance for those dischargers who cannot immediately comply with Discharge Specifications A.2., A.6., A.8., and A.9. of Order No. 99-11.
7. The Board has notified interested parties of its intent to adopt this cease and desist order.
8. The Board, at a public hearing held on August 20, 1999, received evidence and considered all relevant information pertaining to this cease and desist order.
9. This enforcement action is being taken for the protection of the environment and, as such, is exempt from the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000 et seq.) in accordance with Section 15321, Article 19, Division 3, Title 14, California Code of Regulations.

IT IS HEREBY ORDERED that, in accordance with Section 13301 of the California Water Code, all operators of CAFOs enrolled under Order No. 99-11, NPDES No. CAG018001, comply with all Discharge Specifications and Provisions of Order No. 99-11, NPDES No. CAG018001 forthwith, with the exception of the following:

1. Compliance with Discharge Specification A.2. shall be achieved as follows:
 - a. The following dischargers shall achieve compliance with Discharge Specification A.2. forthwith: (See Attachment "A" for a list of these dischargers.)
 - i) Dischargers who have developed and implemented an acceptable Engineered Waste Management Plan (EWMP),
 - ii) Dischargers who were required to develop and implement an acceptable EWMP pursuant to Provision D.3. of Order No. 94-7, or
 - iii) Dischargers who were required by law to submit a report of waste discharge and who were informed by the Executive Officer that the report of waste discharge was to include an acceptable EWMP.
 - b. Those dischargers not included in item 1.a., above, shall develop and implement an acceptable EWMP and achieve compliance with Discharge Specification A.2. in accordance with a time schedule to be adopted by the Board at a later date.

2. Compliance with Discharge Specification A.6. shall be achieved as follows:

Dischargers may continue to supply manure for application to existing cultivated croplands (not pasture lands) within the Chino Basin at agronomic rates unless the Board finds that progress is not being made toward the construction and operation of a second desalter within the Chino Basin.

3. Compliance with Discharge Specifications A.8. and A.9. shall be achieved as follows:

- a. By January 15, 2000, each discharger shall submit a report to the Executive Officer stating the volume and estimated weight of all manure that is present at the discharger's facility as of December 31, 1999, excluding the manure that is present in the corrals. This volume and estimated weight of manure shall include all manure that has accumulated at the facility (including past years) as of December 31, 1999.
- b. By January 15, 2000, each discharger shall submit a detailed report to the Executive Officer stating the specific means by which the discharger will comply with items 3.c. and 3.d., below. The report can be submitted by the discharger, or by the discharger's duly authorized representative. The report submitted by the discharger's duly authorized representative can address one discharger's facility or can address an aggregate number of facilities, as long as the representative has been duly authorized by the dischargers to represent them. If a discharger chooses representation, the discharger shall provide the name of their representative to the Executive Officer, in writing, by January 15, 2000. The report shall include, at a minimum, the name of the person who will transport the manure from the facility, the destination of the manure, the month that the manure will be removed from the facility, and a statement confirming that financial resources are available to comply with items 3.c. and 3.d., below.
- c. At least 50% of the manure that was present at the discharger's facility as of December 31, 1999 shall be removed from the facility by December 31, 2000.
- d. All of the manure that was present at the discharger's facility as of December 31, 1999 shall be removed from the facility by December 31, 2001.

4. If, in the opinion of the Executive Officer, any discharger fails to comply with any part of this Order, the Executive Officer is directed to issue a complaint assessing administrative civil liability or to request that the Attorney General take judicial enforcement action against the discharger, including an injunction and civil monetary remedies, if appropriate, pursuant to Sections 13331, 13350, 13385, 13386, and/or 13387 of the California Water Code.

I, Gerard J. Thibeault, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Santa Ana Region, on August 20, 1999.

Gerard J. Thibeault
Executive Officer